

**To:** EOC Public Information[EOC\_Public\_Information@epa.gov]; Card, Joan[Card.Joan@epa.gov]; Hull, George[Hull.George@epa.gov]; Levine, Carolyn[Levine.Carolyn@epa.gov]  
**Cc:** Grantham, Nancy[Grantham.Nancy@epa.gov]; Gray, David[gray.david@epa.gov]; Press[Press@epa.gov]; Deitz, Randy[Deitz.Randy@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Allen, Laura[Allen.Laura@epa.gov]  
**From:** Ostrander, David  
**Sent:** Wed 9/16/2015 6:28:38 PM  
**Subject:** RE: Six bids

Good with me.

**From:** StClair, Christie **On Behalf Of** EOC Public Information  
**Sent:** Wednesday, September 16, 2015 12:26 PM  
**To:** Ostrander, David; Card, Joan; Hull, George; Levine, Carolyn  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** Re: Six bids

Thanks, David.

Let's avoid getting too in the weeds on contract nuances. I suggest we augment our current response with some of the additional language that's been circulating - this will also give AP additional content they can use for a follow-up story.

Any objection to using the following?

The issuance of a work order doesn't mean that there has been a final decision to build a wastewater treatment plant. Agency staff initiated the RFP process immediately after the spill, so that the procurement process would be well underway if that decision were to be made. (It can take several weeks to specify, solicit proposals, conduct technical evaluations, and then mobilize and deploy.)

We have continued to proceed with the necessary steps to procure a system. Our contractor has solicited proposals and is evaluating 6 company proposals. This

evaluation is in process

At the same time, the agency is conducting an analysis to determine if a temporary treatment plant provides a measurable benefit to water quality downstream in the Animas River. The agency is closely coordinating with officials in Colorado, New Mexico, Utah, Southern Ute tribe, Mountain Ute tribe, and Navajo Nation to develop a comprehensive, long-term plan for the Gold King Mine site.

## BACKGROUND

You can read the RFP here: <http://www2.epa.gov/sites/production/files/2015-09/documents/08-1574715.pdf>

In particular, you'll want to see:

1. Page 6, 3.0, "Project Technical Requirements":

"EPA has directed ER to procure an interim water treatment plant for the treatment of mine discharge for an emergency response action at the Gold King Mine Site in Colorado. ..."

2. Page 26, 11.0 Award of Subcontract:

Bidders should note this is an EPA time-critical removal project and that bidder's inability to provide an aggressive, but realistic, schedule and demonstrated ability to provide all required resources on schedule, will be considered during the evaluation process. Be advised this RFP does not guarantee the work will be performed, and makes no guarantee on quantities. The actual quantities may be greater than or less than the quantity specified in the Scope of Work.

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**From:** Ostrander, David  
**Sent:** Wednesday, September 16, 2015 2:09 PM  
**To:** EOC Public Information; Card, Joan; Hull, George; Levine, Carolyn  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** RE: Six bids

**The below email lists the requirement for EPA approval of subcontracts that would be awarded by ER. Additionally, EPA under the contract, EPA has the authority to unilaterally change the SOW at any time. (I should have that contract clause soon) Bottom line, is that EPA is in a decision role on all actions taken by ER and can change those directions at any time.**

**See below for additional answer on other question.**

**From:** "Braun, Richard" <[Braun.Richard@epa.gov](mailto:Braun.Richard@epa.gov)>  
**Date:** September 14, 2015 at 9:04:15 AM MDT  
**To:** "Sandoval, Joni" <[Sandoval.Joni@epa.gov](mailto:Sandoval.Joni@epa.gov)>  
**Subject:** RE: Gold King Mine Release - HDPE Pipe installation

Contract clause G.7, requires that any subcontract over \$ 150K must have OSC and CO review and concurrence. Here is a quick rundown of what the clause says:

- Sole source subcontracts > \$25K require OSC & CO review and concurrence
- Competitive subcontracts between \$100K and \$ 150 K require OSC review and concurrence
- Competitive subcontract > \$ 150K require OSC & CO review and concurrence.

Richard Braun

EPA Region 8

Contracting Officer

303-312-6380

[braun.richard@epa.gov](mailto:braun.richard@epa.gov)

**From:** StClair, Christie **On Behalf Of** EOC Public Information

**Sent:** Wednesday, September 16, 2015 11:01 AM

**To:** Ostrander, David; Card, Joan; Hull, George; Levine, Carolyn

**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura

**Subject:** Re: Six bids

David, this is great. Thank you for adding some clarity and precision.

1. Can you help me understand the difference between Aug. 6 v Aug. 21? The RFP we posted is dated Aug. 21 but Aug. 6 keeps coming up too. The Aug 6<sup>th</sup> document is a task order under the contract to ER. The RFP is a request by ER for proposals for the water treatment unit to be procured under a subcontract from ER.

<http://www2.epa.gov/sites/production/files/2015-09/documents/08-1574715.pdf>

2. I need language to help explain this: page 6, 3.0, "Project Technical Requirements": "EPA has directed ER to procure an interim water treatment plant for the treatment of mine discharge for an emergency response action at the Gold King Mine Site in Colorado. ..."

How can we say this is one step in a procurement process?

Thanks,  
Christie

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**From:** Ostrander, David  
**Sent:** Wednesday, September 16, 2015 12:50 PM  
**To:** Card, Joan; EOC Public Information; Hull, George; Levine, Carolyn  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** RE: Six bids

Given the confusion around the contract documents, I think some clarification may be in order.  
(this will need some messaging help)

The August 6<sup>th</sup> task order 77 had an objective: Provide an operating temporary mine water treatment system capable of treating the mine water at a potential flow of 1000 gpm on or before September 15. The water quality of effluent to be determined by EPA. (The system needs be operable through the at least the next 12 months.)

As this objective was a day after the spill, it was forward thinking contingency recognizing that the procurement of a temporary treatment system would take a few weeks to specify, solicit proposals, conduct technical evaluations, and then mobilize and deploy.

We have continued to proceed with the necessary steps to procure a system while evaluating conditions at the mine, water conditions from the discharge and downstream impacts to make an informed, scientific decision on the needs, benefits and costs of a temporary, portable treatment system. Our contractor has solicited proposals and is evaluating 6 company proposals. This evaluation is in process.

EPA has collected water and sediment quality data and is conducting an analysis to determine if a temporary treatment plant provides a measurable benefit to water quality downstream in the Animas River.

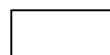
**From:** Card, Joan  
**Sent:** Wednesday, September 16, 2015 10:33 AM  
**To:** EOC Public Information; Hull, George; Ostrander, David; Levine, Carolyn  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** RE: Six bids

Ok, but would be good to get answer to the August 4 question. Thanks.

**From:** StClair, Christie **On Behalf Of** EOC Public Information  
**Sent:** Wednesday, September 16, 2015 10:28 AM  
**To:** Card, Joan; Hull, George  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** Re: Six bids

Ah, gotcha. This is separate.

<http://www.thedenverchannel.com/news/mine-disaster/epa-plans-treatment-plant-for-gold-king-mine-in-silverton-after-big-spill>

 EPA plans treatment plant for Gold King Mine
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**From:** Card, Joan  
**Sent:** Wednesday, September 16, 2015 12:23 PM  
**To:** EOC Public Information; Hull, George  
**Cc:** Grantham, Nancy; Gray, David; Press, Randy; Purchia, Liz; Allen, Laura  
**Subject:** RE: Six bids

Thought we were responding to this:

## **EPA Coming Clean, but Gold King a Gold Mine for Contractors**

September 8, 2015

(Photo: [usepagov](#) / Flickr)

The Environmental Protection Agency (EPA) has posted hundreds of pages of documents about the Gold King Mine leak, which sent 3 million gallons of mining wastewater flowing into Colorado's Cement Creek and Animas River. The records provide insights about the mine cleanup work, the chronology of the release, and the emergency response that took place after the leak.

The Project On Government Oversight's review of federal contracts shows that even before the spill supposedly began, the EPA was reacting to an emergency in the region that required a rapid response. A nearly \$1 million contract modification with Environmental Restoration LLC—the EPA contractor working onsite at Gold King Mine where the spill occurred—was signed on August 4, the day before the spill. What was the money for and where was that emergency? The EPA hasn't fully come clean yet, and the agency should provide more details about the three projects funded on August 4 and the activities at Gold King that day, including descriptions of activity in posted pictures from August 4 (see pictures posted on pages 2 and 3).

Contract modifications increasing funding for "Emergency and Rapid Response Services for Region 8" occurred on August 4, August 5, and August 13 (effective on August 6), totaling \$2.2 million. The contract modifications do not mention Gold King Mine specifically, and the contracting officer who prepared the listings didn't include the place of performance for the emergency response. If any of those contract actions are related to the Gold King spill, it raises the question of what EPA officials knew and when they knew it, and what remedial actions were taken.

The EPA hasn't responded to POGO's email request for information about emergencies in Region 8, which includes Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, and 27 Tribal Nations, in the month of August. (For some history on why the Gold King disaster occurred, see our earlier post about the archaic laws and years of neglect that led to the spill. The circumstances are unfortunate, because the EPA and Environmental Restoration and other cleanup contractors did not cause the underlying problem, they are cleaning up a mess left behind by the mining companies that are no longer in business.)

Environmental Restoration also received work specifically mentioning the "Emergency and Rapid Response Services for Region 8. Gold King Mine Release," signed on August 6, for up to \$500,000, which was subsequently increased to up to \$1,000,000 and now nearly \$1.4 million. Questions are worth posing about the added funding for this contract and whether the EPA was concerned about awarding clean-up work to the same contractor that was involved in the initial spill. The EPA has released the statement of work for the post-release work, which includes some background on the emergency, deliverables, and a schedule that is expected to end "on or before 11/30/2015."

The company has stated that it will honor its "contractual confidentiality obligations to all of our clients, and cannot provide any additional information." Its work at the Gold King Mine dates back to July 2014, when it was hired to conduct "[Emergency and Rapid



Response Services] Time Critical Removal – Gold King Mine, San Juan County, CO.” According to the EPA website, Environmental Restoration has been involved in emergency services in Region 8 since at least 2001.

In addition to the work awarded to Environmental Restoration, the EPA has brought in Environmental Quality Management, Inc. (EQM) to also respond to the Gold King Mine spill. To date, EPA work orders awarded to EQM total \$500,000 for Region 6 and \$118,000 in Region 9, and more money may have to flow to those regions because they are downstream and at risk from the Gold King Mine leak.

In an effort to have an independent review of the release, the EPA announced that the Department of the Interior would conduct a review; this will be in addition to investigations by the EPA Inspector General. Congress, which has a long history of looking into the topic of abandoned mines, is also demanding answers from the EPA, Interior Department, and Environmental Restoration, and scheduling hearings.

The EPA’s release of contracts and other data has assisted the public in understanding the government’s actions, but there is a need for more answers. The EPA’s handling of this situation hasn’t been without its critics who want more information from the agency about concerns with notifying and working with local communities and questions about the leak itself. Obviously, we still need more information about the spill, its impact, the future cleanup, and the tax money being spent (especially since lawsuits are forthcoming and the EPA is bracing for claims). The public release of additional information and details will enhance the ongoing investigations and allow the government to learn from its mistakes rather than hiding the truth from policymakers and the public.

By: Scott H. Amey, J.D.  
General Counsel, POGO

**From:** StClair, Christie **On Behalf Of** EOC Public Information  
**Sent:** Wednesday, September 16, 2015 10:14 AM  
**To:** Card, Joan; Hull, George  
**Cc:** Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura  
**Subject:** Re: Six bids

Which Aug. 4 document are you referring to?

The RFP we just posted on the GKM website was issued Aug. 21, with bids due by Aug.

<http://www2.epa.gov/sites/production/files/2015-09/documents/08-1574715.pdf>

Updated language, developed with George and Terry (from the EU):

The issuance of a work order doesn't mean that there has been a final decision to build a wastewater treatment plant. Agency staff initiated an RFP for a potential wastewater treatment plant

shortly after the Aug. 5 release, so that the procurement process would be well underway if that decision were to be made. The agency is closely coordinating with officials in Colorado, New Mexico, Utah, Southern Ute tribe, Mountain Ute tribe, and Navajo Nation to develop a long-term water and sediment plan for the Gold King Mine site.

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**From:** Card, Joan

**Sent:** Wednesday, September 16, 2015 11:50 AM

**To:** Hull, George

**Cc:** EOC Public Information; Grantham, Nancy; Gray, David; Press; Deitz, Randy; Purchia, Liz; Allen, Laura

**Subject:** Re: Six bids

This is useful, but wasn't the concern raised about an August 4 procurement?

Joan Card

Senior Policy Advisor

Region 8

Sent from my EPA iPhone

On Sep 16, 2015, at 9:45 AM, Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)> wrote:

Here are few suggested edits. Also, in the last sentence, can we be more specific about the focus of the long-term plan for monitoring and management of water discharges from the mine. While it might be obvious, I think including that reference would be reassuring to the downstream communities. - George

**From:** StClair, Christie **On Behalf Of** EOC Public Information

**Sent:** Wednesday, September 16, 2015 11:08 AM

**To:** Grantham, Nancy

**Cc:** Gray, David; Press; Deitz, Randy; Card, Joan; Hull, George; Purchia, Liz; Allen, Laura

**Subject:** Re: Six bids

Looping in Randy and Joan, and George, Liz and Laura.

After talking with Randy I think we can and should strengthen our response. Here's a draft for everybody's input:

The issuance of a work order doesn't mean that there has been a final decision to build a wastewater treatment plant. Agency staff initiated a work order for a potential wastewater treatment plant the day after the Aug. 5 release, so that the procurement process would be well underway if that decision were to be made. The agency is currently working with the states of Colorado and New Mexico and the Navajo Nation to develop a long-term plan for monitoring and management

regarding the Gold King Mine site.

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**From:** Grantham, Nancy  
**Sent:** Wednesday, September 16, 2015 10:50 AM  
**To:** EOC Public Information  
**Cc:** Gray, David; Press  
**Subject:** Re: Six bids

Please keep us here closely looped in as we are engaged on this issue thx ng

Sent from my iPhone

On Sep 16, 2015, at 8:49 AM, EOC Public Information  
<[EOC\\_Public\\_Information@epa.gov](mailto:EOC_Public_Information@epa.gov)> wrote:

David, I'll reach out to OSWER for help responding.

Christie

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